

## PLAINTIFF'S RIGHTS. ARE SET FORTH

Supreme Court Reverses a Decision of Judge Lewis of the District Court.

JENNIE LARSEN NOW  
HAS STANDING FIXED

Rights of a Human Compared  
With Those of a Horse in  
the Opinion.

"The very courts, which assert the existence of power to compel a plaintiff to submit to a physical examination, assert with equal emphasis that an order of the court that a veterinary surgeon may be sent into the premises of a party against his will to examine a horse whose condition is in dispute, is in excess of the power of the court. Why, then, in such an instance, is the plaintiff to be compelled to allow a veterinary surgeon to enter his premises to make a physical examination of his horse, while he is not to be compelled to allow a physician, and a stranger, against her will, to enter her home, and she be there compelled to lay bare her body and submit to his touch, and, if on her refusal, to submit to such a course, as the doors of the courts be closed on her, is that not also an unauthorized invasion of her rights?"

Jennie Larsen may now proceed with her damage suit for personal injuries against the city, the Big Four Advertising company and James Reilly without having to submit to a physical examination at the hands of a physician, selected by the defendants, to determine the nature and extent of her alleged injuries.

**Mrs. Larsen's Suit.**  
Mrs. Larsen filed her suit early in the year 1907. She alleged that she was permanently injured by the blowing down of a Big Four Advertising sign that was loosely and carelessly attached to the west side of the Buffalo saloon, Second South and Commercial streets, owned by Reilly. Her left leg and ankle were bruised and cut, she alleged, her back and spine were injured, her nervous system was disordered, and her nose and face were disfigured. She demanded \$3,000 damages and \$30 attorney fees.

Before the case came to trial in the Third district court the Big Four Advertising company applied for and was granted an order requiring the plaintiff to submit to a physical examination by a competent physician to ascertain the exact nature and extent of her injuries. Mrs. Larsen refused to allow a physician to enter her home and subject her to an examination and the district court dismissed the case. Thomas D. Lewis was the judge.

Mrs. Larsen appealed to the supreme court and Justice D. W. Straup, Saturday afternoon handed down his opinion in which he says that the courts are without authority or power to order the plaintiff to submit to a physical examination in an action for damages for personal injuries, and the district court was in error in dismissing the case when Mrs. Larsen refused to submit to an examination.

**Remedy Suggested.**  
Justice Straup says there is nothing in the statutes of Utah providing for or allowing such an examination, but suggests a remedy in the State Legislature, which might pass such a measure if it so desired. It has been the custom in Utah to require such an examination but, thanks to Justice Straup, this custom no longer exists. He criticizes the Michigan courts, in the excerpt from his lengthy opinion at the head of this article, for asserting the existence of power to compel a plaintiff to submit to a physical examination when the courts assert with equal emphasis that an order that a veterinary surgeon be sent into the premises of a party against his or her will to determine the physical condition of a horse, which was in dispute, is in excess of the power of the courts.

Another point raised by Justice Straup is that such a course might befuddle the jury, as both sides in such a case would introduce the testimony of physicians as to the wounds or injuries, with the result that the plaintiff's physicians would exaggerate the injuries while the defendant's physicians would reduce them to a minimum.

The judgment of the lower court is reversed in Justice Straup's opinion, and the case is remanded for trial.

**ONLY \$1.25**  
To Brigham and return for Peach Day Excursion, via O. S. L. September 16th. Special trains at 8:15 and 8:45 a. m., returning, leave Brigham at 8:00 and 10:30 p. m.

**HAD WATERMELON TUCKED  
NEATLY UNDER HIS COAT**

M. O. Day and Nash Collier, two middle-aged men, were arrested Saturday night at 8 o'clock by Chief of Detectives George Sheets and taken up in the city jail charged with petit larceny. Chief Sheets saw the men coming up State street, and, being suspicious of them, followed them. In passing a fruit stand one of the men was seen to quickly tuck a watermelon under his coat. The officer immediately put them under arrest. The melon was given back to the fruit dealer, but at the police station under the coat of Day came a pair of ice tongs and from a coat pocket of Collier a large copper horse faucet. The police could not identify the man whom the last two articles belonged.

**WANTED MONEY.**  
We have many parties who wish to get loans on fine improved real estate. See us if you have money to loan.

**HOFFMAN BROS.,**  
62 1/2 West Second South street.  
Telephones 244.

Pythian Sisters' Card Party, K. of P. Hall, Friday evening, Sept. 18. Refreshments and a good time.

## OUTLOOK IS BRIGHT FOR THE EISTEDDFOD

Indications Point to One of the  
Most Successful Gatherings  
Ever Held.

Managers of the great Eisteddfof, to be held in Salt Lake City the first three days of October, express great confidence over the success of the affair and say that the indications point not only to an unusually attractive affair on account of the contestants entered and the number of concerts scheduled, but on account of the large attendance assured.

Advices from both Denver and Los Angeles promise a special trainload of people. More than 500 people are expected to attend from the latter city and about 1,000 from Denver. The first three days of October, express great confidence over the success of the affair and say that the indications point not only to an unusually attractive affair on account of the contestants entered and the number of concerts scheduled, but on account of the large attendance assured.

The number of entries already received exceeds the greatest expectations of the managers, especially in the large choruses. The Denver people, it is said, are straining every nerve to the end of capturing the prize. The entries are paying a large amount of attention to rehearsals and are determined to win if possible, has stimulated the organizations here to greater effort.

Choruses from Provo and Ogden are also working hard, and it is expected that the concerts given by the large choruses will be among the best of the kind ever given in this city.

**RATIO OF EXTRAVAGANCE  
VS.  
RATIO OF ECONOMY.**

A New York paper speaks of the inclination of a man to increase his expenses 2 1/2 times when he doubles his income and calls it the "Ratio of Extravagance."

The part of wisdom is to have a "Ratio of Economy," saving more as you earn more.

You want the balance sheet of your personal finances to show a GAIN each year, do you not?

Saving, systematic, persistent saving will make this sure; nothing else will.

To save and have systematically and persistently you should have an account with the Utah Savings & Trust Company.

Good investment presents itself, grasp it—but first you must have the capital.

This bank is one of the most carefully managed institutions in the United States. We offer you security, safety and 4 per cent interest, compounded semi-annually, on your savings. You can open an account with a deposit of one dollar or more.

Make our bank your bank. **UTAH SAVINGS & TRUST COMPANY.**  
235 Main Street.  
In the Business Heart.

**FUNERAL SERVICES OVER  
LATE GEORGE W. BODEL**

Funeral services over the remains of the late George W. Bodel, who was killed last Tuesday at Denver, in the Belmont hotel fire, will be held from the home of his brother, John H. Bodel, 232 East First South street, in this city, at 3 o'clock Sunday afternoon. Mr. Bodel was forty-five years old at the time of his death, and was employed in the Pullman service of the Colorado & Southern Pacific railroad. He had been engaged in the railroad business since 1881.

Mr. Bodel, together with William E. Bodel, a son-in-law on the Colorado & Southern Pacific railroad, occupied a room on the third floor of the hotel, and when the fire broke out, the smoke being so dense down the stairway as to make it impossible to escape by that means, Bodel jumped from the window to the ground, about forty feet below. He received numerous bad cuts and bruises, and internal injuries which resulted in his death before he could be taken to the hospital.

Mr. Bodel's brother, the Rev. J. Knox Bodel, pastor of the church of the Resurrection at Great Falls, Ida., arrived in this city Saturday to be present at the funeral. The interment will take place at Mount Olivet cemetery.

**Fruit Lands.**  
10,000 acres of choice fruit lands included in the Oasis project. Carey act opening and drawing, Oasis, Utah, September 28th.

**SUITS TO BE FILED TO  
COLLECT POLL TAX**

More prosecutions of poll tax defendants are to be instituted by the city attorney's office. The street department has prepared a list of the delinquents and turned it over to the city attorney to institute the prosecutions on.

The number of delinquents is not as large this year as in other years, it is said, but a determined effort will be made to collect what is coming to the city from this source of revenue.

Heretofore delinquents of long standing have been dropped from the list, but this will not be done in the future. If delinquents do not pay they will be listed before the courts and made to explain why they have failed to "come through."

## "BULLFROG" CLARK ON VIRGIN FIELDS

Well-Known Utah-Nevada Operator Talks of the New Oil Country.

SAYS IT WILL BE  
GREATEST ON EARTH

He Also Takes Over the Stock  
of Another Company, and  
Pays Debts.

H. H. Clark of Utah and Nevada, more familiarly known as "Bullfrog" Clark, who was and is one of the leading spirits in the development of the Sacramento state, and who is at present operating in the new Virgin oil fields, is spending a few days in the city, combining business with pleasure.

Mr. Clark was loth to speak of his present business plans in the Virgin fields, and was finally induced to communicate what he thought would be of interest to the public.

The Utah-Arizona Consolidated Oil company (Mr. Clark's) own outright 26,000 acres of oil lands, and are the most extensive operators in the district. A close corporation controls the property and no shares have been offered for sale, the entire capital stock having been taken by the members of the company, which is composed of Eastern and Western bankers and railroad men.

A meeting of the company was held Friday, when future plans were mapped out, it being decided to at once install two more standard rigs and one portable, and to drill holes and plug them up until such time as a pipe line can be completed.

The first company to operate in the Virgin fields owned 1480 acres, Mr. Clark being a silent partner therein, but owing to bad management the company became deeply in debt and financially demoralized. Saturday Bert L. Smith and Mr. Clark took over the entire stock, paying all the debts, amounting to about \$12,000, and it is the intention to start active development work on the property at once. A rig is already on the ground. This property lies between two of the best wells in the district, and has one well in oil now.

It is the opinion of Mr. Clark that the district will become the greatest oil country ever known, owing to the vast extent of the territory, which is over twenty-three miles in length, while the width is problematical.

Mr. Clark has long been associated with the Nevada country, having been the second in command of the Nevada oil company, and is the son-in-law of the late John H. Bodel. He expects to be in the city ten days, and having brought his automobile with him, he intends to have a pleasant vacation.

**HUBER AND NEALE ARE  
GUESTS AT LUNCHEON**

Head Men of Brotherhood of  
Carpenters and Joiners Are  
Entertained.

William D. Huber, president, and Thorpe A. Neale, treasurer, of the United Brotherhood of Carpenters and Joiners of America, which will hold its biennial convention in this city, beginning September 21, were the guests of the convention delegates at the Commercial club at luncheon Saturday. Many matters relating to the coming convention were discussed. Mr. Huber said that there probably would be at least 600 delegates at the convention when it is formally opened, and that many of them would be accompanied by their families.

Some idea of the advantages of the convention from a financial standpoint was given by Mr. Neale, although it is one of the recent conventions, held at Milwaukee, the delegates spent more than \$80,000 while in the city. The convention is regarded as an outing by most of the delegates, although it is convened for good hard work in arranging the business of the brotherhood for the following two years, and they take advantage of the opportunity to see something of the city and the country.

Following the luncheon, Mr. Huber and Mr. Neale visited Saltair as guests of the local brotherhood, and enjoyed a short outing there. A meeting of the local committee of the brotherhood, the convention committee of the Commercial club will be held Sunday afternoon to arrange details of entertainment during the visit of the delegates.

**EXPERT KODAK FINISHING.**  
Harry Shipley, Commercial Photographer, 151 South Main, second floor.

**COUNCIL TO INSPECT  
VOTING MACHINES**

The city council will probably adjourn Monday night's session for a recess meeting to inspect the voting machines used in the recent bond election, that the record may be legalized in every particular and preserved under the statute of 1907.

City Attorney H. J. Dinwiddie, at the request of City Recorder John B. Moreton, has given a written opinion, in which he holds that the inspection and examination of the voting machines when they are to be used within six months, are necessary under the statute to legalize the election.

This power, the attorney says, cannot be delegated to anyone else. The council will then file a report, including the number of each machine used and any other facts about them required by the statute to make up the permanent record.

**Tony Arnold Carriage Co.**  
Day and night. Bell Main 26, Ind. 22.

**ELBERTA PEACHES, 50c**  
1000 bushels of nice large, slightly high picked Elberta peaches, 50 cents per bushel at orchard delivered. W. S. Ramer. Phone 3576 Bell, 503 Atlas Block.

**Professional Kodak Finishing.**  
J. W. Shipley, Hooper bldg., E. 1st St. Mail orders. Ind. 1966.

## JESSE KNIGHT WILL BE NAMED AT LOGAN

Provo Mining Man Is to Be the  
Standard-Bearer of Utah  
Democracy.

HE WILL GIVE SPRY A  
RUN FOR HIS MONEY

United States Marshal, Unless  
He Is Unlike Peewee Thomas,  
Will Not Let Go Teat.

Jesse Knight will be the Democratic candidate for governor of Utah. This statement will be a surprise to the United States marshal of Utah, but nevertheless it is true, and it puts Marshal Spry in a position where he does not know what to do. "Uncle Jesse" Knight has repeatedly declined the nomination for governor which his friends have urged him to accept; he has absolutely stated that he could not be the standard-bearer of the Democracy in the gubernatorial race. "This statement was made to The Tribune on Saturday. The informant continued:

"But, regardless of his declaration, the convention at Logan will name him. No man can decline the nomination of a great state no more than he can that of president of the United States."

Jesse Knight has large interests in Utah. He lives in Provo. He has done more in a minute for Provo and Utah county and the state of Utah than has Smith in many years. The difference between Smith and Knight is that the latter has put up his staff to develop the state—the apostle has not.

"Now, irrespective of politics, I believe that Jesse Knight would make an admirable executive. He would put business sense into the executive office, something in which it has been deficient for a long while. The mere fact that he was the nominee would help to boost the state. There is no one who has been suggested as a candidate against him."

"Now, I am sure that he will accept the nomination if it is tendered him by the Logan convention. I am sure, he to Utah what Johnson was and is to Minnesota."

The Tribune's informant would say no more except: "Just keep your eye on the Logan convention. When Jesse Knight is nominated by acclamation, as he will be, see how quickly Spry and Howell stock will drop, and how Smart stock will rise."

One week from next Tuesday there will be something doing in Utah. On that date the church Democracy will name its state ticket in Logan. There will be something doing there.

**LIVES TO BE ONE  
HUNDRED YEARS OLD**

Grandmother of a Utahn Celebrates an Unusual Birthday Anniversary.

On August 10th, Mrs. Charity H. Stevens of Oxford township, Michigan, celebrated her hundredth birthday. It was a notable event, nearly 1200 persons visiting the Stevens home during the day, which opened with a drizzling rain. Reminiscences of the past were delivered by Congressman Sam W. Smith of Michigan, and other prominent speakers. There were present descendants and relatives from half a dozen states, including Utah. Mrs. Stevens is widely known and respected for her estimable qualities, and is a writer of ability. Though feeble, she is still in perfect physical and mental health, and most of her life has been spent in the part of the parents or custodians of the children affected or a desire to evade quarantine.

Three cases of scarlet fever, a similar number of cases of typhoid and one case of chickenpox were reported in the week just ended. There are three cases of smallpox, three of scarlet fever and one of diphtheria still in quarantine. No cases of typhoid or chickenpox were reported for the week.

Births outnumbered deaths by one, there being twenty-eight of the former and twenty-seven of the latter. The births were evenly divided, fourteen being males and fourteen females. Of the deaths, twelve were males and fifteen were females. Ten babies were shipped here for burial.

**Empire Theatre Specials.**  
"The girl with the Auburn Hair," beautiful scenic effect and the Cattle Rustlers.

**REPRESENTATIVES CHOSEN  
TO REPRESENT CLUB**

T. H. Fitzgerald and Charles F. Warren have been appointed representatives of the Commercial club of this city to the sixteenth annual National Irrigation congress, to be held at Albuquerque, N. M., September 23 to October 3.

Arrangements are also being made by the congress to have an address delivered on some of the phases of dry farming and it is probable that Gov. George Curry of New Mexico, third vice-president of the Transmissouri Dry Farming congress, will be chosen to deliver the address.

**GOVERNMENT IS SUING  
TO CONDEMN REALTY**

Condemnation proceedings were brought Saturday by the department of justice against the Miner Building company et al., owners of the land directly west of the postoffice, which is wanted by the government for the addition to the present federal building. The lot in question is 40x180 feet.

Walker, who is one of the owners of the land, was willing to relinquish his portion, but the others refused. Hence the suit.

**FOUND AT THE ROYAL CAFE.**  
Dainty food and a cool place to eat.

**Picture Framing.**  
Salt Lake Photo Supply Co., 142 Main.

**"Our Sunland,"**  
50 pages, 30 pictures, 2 maps, replete with valuable information dealing especially with the million-dollar Oasis project. 15 West 2nd South, Salt Lake.

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## FALLING OFF IN FRUIT SHIPMENTS

Peaches Bring Only 50 Cents  
Per Bushel, as Against  
\$1.50 Last Year.

UTAH WILL ONLY SHIP  
600 CARLOADS THIS YEAR

Most of the Fruit Is Produced  
in the Northern Part of  
State.

General Superintendent J. M. Davis of the Oregon Short Line has returned from a canvass of the fruit situation in the northern part of the state and states that the shipments this year will not be so large as those of 1907, nor is the price so good for peaches. "All the roads in Utah shipped about 800 carloads of fruit in 1907 and this year it will be only about 600 cars," said Mr. Davis. "These of course are only approximate figures. Peaches this year are bringing only 50 cents a bushel, when last year they realized \$1.50 a bushel. The crop is bountiful, but the price does not warrant the producer in shipping. The recent heavy rains, followed by the hot sun, have ripened the fruit very rapidly, and thus it has to be picked at once and shipped by those who intend to ship."

Mr. Davis could offer no explanation for the fall of the price of fruit except the general depression. Fruit is considered a luxury and therefore many who bought liberally last year will not feel themselves this year in a position to buy.

**Where Fruit Comes From.**  
Much of the fruit shipped from Utah comes from the northern part of the state. Provo and neighborhood produces about 100 carloads. Clearfield, which is a new district between Salt Lake and Ogden, produces about fifty carloads, Brigham City about 200 cars, Hot Springs fifty cars, Willard twenty-five cars and Ogden 100 cars.

The bulk of the fruit produced in Utah goes to Omaha, St. Paul and Minneapolis. The fruit is bought by commission agents and shipped to these places, which are the distributing points for the northwestern country. Peaches and plums are the fruits being shipped at present.

The fall in price, of course, means a loss to the farmer, as does the shrinkage in shipping, and in all likelihood the prices for other fruits will range correspondingly.

Arrange your business to go to the Carey act land opening and drawing at Oasis, Utah, September 28th—the million-dollar Oasis project; water in the canals.

**DECREASE SHOWN IN  
CONTAGIOUS DISEASES**

Contagious and infectious diseases dropped from twenty-six last week to fourteen for the week just ended, according to the weekly report of the city health board, given out Saturday.

Whooping cough apparently has subsided somewhat, although it was feared that with the opening of the city schools there might be an epidemic of it. Only seven cases were reported this week. Last week there were twice as many reported—fourteen—and the health department gave out that it was in possession of information that scores of cases existed that had not been reported to it, through negligence or carelessness on the part of the parents or custodians of the children affected or a desire to evade quarantine.

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## SALT LAKE CITY IS NOW SPREADING OUT

Real Estate Dealers Call Attention to Encroachment on  
Outskirts.

Real estate dealers here call attention to the manner in which the city is spreading out and especially in the way it is building up on the outskirts of the old city limits. This is shown in the recent additions in which many new building lots are being sold. They point to the additions on the west side of the city, Federal Heights on the east and the great number of building operations which are being carried on all over the north bench. In the southeastern section of the city also extensive building operations are being conducted, from the south end of Federal Heights as far south as the city limits. One of the most recent localities which has grown up and one which promises to be especially attractive is the Westminister Heights district. This property is between Eighth and Twelfth South and east of Thirteenth East. The property extends up over the east bench, but lies mainly on the bench itself, comprising between forty and fifty acres. A visit to this section shows an activity that is astonishing. Already thirty-seven lots have been sold and a number of houses have been erected. Streets have been laid out and graded and cement walks have been laid. Water from the Big Cottonwood canyon system and the managers have fixed very careful building restrictions.

**Recent Purchases Made.**  
Among the list of those who have purchased building sites in this section appear the names of E. L. Williamson of St. Louis, Dr. C. R. Murchison, Dr. O. R. Dibble, M. C. Matson, Dr. William A. Wade, W. E. Morris, W. O. Eubank, J. R. Danner, M. J. Han, John Smith and M. L. Lane, J. D. Hagman, Dr. D. Payne and C. W. Christensen. Many people who have purchased building sites come from Seattle and Los Angeles.

A visit to the property reveals an unusually attractive place. The view extends on to the front as far as one can see out over Salt Lake valley, including a glimpse of the Great Salt Lake and the mountains to the eastward. Garfield can be seen and the light smoke to the south indicates the location of the city of Murray. To the west and north are the emigration canyon and the wonderful red rock canyons and the Wasatch range. Parley's canyon, Little Cottonwood and Big Cottonwood are also in plain sight.

The land is fertile and the district is covered with attractive farms and orchards. The locality offers an especially attractive place for home building, and as it is not circumscribed by any of the city's boundaries, the north bench and in the northeastern section of the city, there seems to be no limit to the possibilities of growth. Most of the residences are of the bungalow type, costing from \$2500 to \$4500. Most of them were designed by A. J. Hamilton, architect, formerly of Seattle.

**FREE PEACHES**  
At Brigham September 15th. Excursion via O. S. L. Round trip \$1.25. Special trains at 8:15 and 8:45 a. m., returning, leave Brigham at 8:00 and 10:30 p. m.

**DEATH OF AN OLD RESIDENT;  
JOHN SNELL PASSES AWAY**

There died in this city yesterday, at a great age, one of the kindest and gentlest of men, John Snell, who was well and ill fortunate to none. A kindly, clean soul, loved of all who knew him, an old resident of this city, and one who has done much in his time to improve it.

We refer to Mr. John Snell, who passed away at his residence, No. 242 West First South street, at an early hour, leaving a widow to grieve at the great affliction of her loss. Mr. Snell was born in Westmoreland county, Pennsylvania, January 15, 1826, and was thus in his 83rd year. It had been his custom for many years to give dinner to the family of his old friends on his birthdays, and these were enjoyable occasions, at which the host was the life of the occasion, enjoying himself like a boy. The last of these was last week, when he was 82 years of age.

Mr. Snell came West about the year 1865, going first to Montana, where he resided about five years, pursuing his business as builder and contractor. In 1870 he came to this city, where he continued in the same line of business, varying it at times by visits to Park City, where he had interests in mines. He built many houses here and owned a large number of them. He was widely known, respected and loved; and his death will be mourned by all who knew him, comprising a great host.

No arrangements have yet been made for his funeral services, but due announcement will be made when they are to be.

**McCoy's Stables.**  
Carriages and light heavy. Phones 81.

**SLOT MACHINE CASE  
IS COMING UP NOV. 15**

The slot machine test case of the city against Mark Bates, a clerk in the La-vielle cigar store, on West Second South street, is set for hearing in Judge George G. Armstrong's division of the Third District court, November 15, on appeal from Judge J. J. Whitaker of the civil division of the city court. The case is one of the many which are being heard in the district court on the charge of gambling devices. All the other city appeals set for hearings in the November term.

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